

Form OP-2 and any attachments. Notice of the authority sought will not be published in either the FEDERAL REGISTER or the Federal Highway Administration's Office of Motor Carriers Register. Protests or comments will not be allowed. There will be no oral hearings.

(b) Under the statute, the carriers covered must have a copy of a valid certificate of registration in any vehicle providing transportation within the scope of the statute.

(c) Form OP-2 may be obtained at any of the FHWA Regional Offices or by contacting the FHWA's Office of Motor Carriers Section of Licensing.

[50 FR 20773, May 20, 1985, as amended at 54 FR 42959, Oct. 19, 1989; 62 FR 15421, Apr. 1, 1997]

#### **§ 368.4 Information on Form OP-2.**

(a) Applicants must furnish all information required on Form OP-2 by completing all spaces on the form and providing any necessary attachments. Failure to do so will result in rejection of the application.

(b) Notarization of the application is not required; however, applicants are subject to applicable Federal penalties for filing false information.

[50 FR 20773, May 20, 1985]

#### **§ 368.5 Where to send the application.**

The original and one copy of the application shall be filed with the FHWA's Regional Office that has jurisdiction over applicant's point of domicile (the instructions to the application provide more specific information), or at such other location as the Secretary may designate in special circumstances. A check or money order for the amount of the filing fee set forth at 49 CFR 1002.2(f)(1), payable to the Federal Highway Administration's Office of Motor Carriers in United States dollars, must be submitted.

[62 FR 15421, Apr. 1, 1997]

#### **§ 368.6 Review of the application.**

(a) Federal Highway Administration staff will review the application for correctness, completeness, and adequacy of the evidence.

(1) Minor errors will be corrected without notification to the applicant.

(2) Materially incomplete applications will be rejected.

(b) Compliance will be determined solely on the basis of the application and the safety fitness of the applicant. An employee review board will decide whether the authority sought falls under the Act, and whether and to what extent the evidence warrants a grant of the authority.

(1) If the authority sought does not require a certificate of registration, or if the evidence does not warrant a grant of the authority sought, the employee review board will deny the application in whole or in part. In the case of a full or partial denial of an application, the Federal Highway Administration will inform the applicant by letter setting forth the reasons for the denial.

(2) If the employee board grants all or part of the application, the Federal Highway Administration will issue a certificate of registration authorizing specified operations provided that applicant has demonstrated compliance with 49 CFR 366 (designation of process agent). If applicant has not complied with this requirement, the Federal Highway Administration will issue a notice stating that a certificate of registration will be issued upon such compliance. No certificate of registration shall be issued prior to compliance.

[50 FR 20773, May 20, 1985, as amended at 50 FR 40030, Oct. 1, 1985; 54 FR 52035, Dec. 20, 1989; 55 FR 47338, Nov. 13, 1990; 62 FR 15421, Apr. 1, 1997]

#### **§ 368.7 Appeals.**

A decision disposing of an application subject to this part is a final action of the Federal Highway Administration. Review of such an action on appeal is governed by the FHWA's appeal regulations in 49 CFR part 386.

[62 FR 15421, Apr. 1, 1997]

### **PART 370—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE**

Sec.

370.1 Applicability of regulations.

370.3 Filing of claims.

## § 370.1

370.5 Acknowledgment of claims.  
370.7 Investigation of claims.  
370.9 Disposition of claims.  
370.11 Processing of salvage.

AUTHORITY: 49 U.S.C. 13301 and 14706; and 49 CFR 1.73.

SOURCE: 62 FR 32042, June 12, 1997, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 370 appear at 66 FR 49870, Oct. 1, 2001.

### § 370.1 Applicability of regulations.

The regulations set forth in this part shall govern the processing of claims for loss, damage, injury, or delay to property transported or accepted for transportation, in interstate or foreign commerce, by each motor carrier, water carrier, and freight forwarder (hereinafter called carrier), subject to 49 U.S.C. subtitle IV, part B.

### § 370.3 Filing of claims.

(a) *Compliance with regulations.* A claim for loss or damage to baggage or for loss, damage, injury, or delay to cargo, shall not be voluntarily paid by a carrier unless filed, as provided in paragraph (b) of this section, with the receiving or delivering carrier, or carrier issuing the bill of lading, receipt, ticket, or baggage check, or carrier on whose line the alleged loss, damage, injury, or delay occurred, within the specified time limits applicable thereto and as otherwise may be required by law, the terms of the bill of lading or other contract of carriage, and all tariff provisions applicable thereto.

(b) *Minimum filing requirements.* A written or electronic communication (when agreed to by the carrier and shipper or receiver involved) from a claimant, filed with a proper carrier within the time limits specified in the bill of lading or contract of carriage or transportation and:

(1) Containing facts sufficient to identify the baggage or shipment (or shipments) of property,

(2) Asserting liability for alleged loss, damage, injury, or delay, and

(3) Making claim for the payment of a specified or determinable amount of money, shall be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage; *Provided, however,* That where claims

## 49 CFR Ch. III (10–1–01 Edition)

are electronically handled, procedures are established to ensure reasonable carrier access to supporting documents.

(c) *Documents not constituting claims.* Bad order reports, appraisal reports of damage, notations of shortage or damage, or both, on freight bills, delivery receipts, or other documents, or inspection reports issued by carriers or their inspection agencies, whether the extent of loss or damage is indicated in dollars and cents or otherwise, shall, standing alone, not be considered by carriers as sufficient to comply with the minimum claim filing requirements specified in paragraph (b) of this section.

(d) *Claims filed for uncertain amounts.* Whenever a claim is presented against a proper carrier for an uncertain amount, such as “\$100 more or less,” the carrier against whom such claim is filed shall determine the condition of the baggage or shipment involved at the time of delivery by it, if it was delivered, and shall ascertain as nearly as possible the extent, if any, of the loss or damage for which it may be responsible. It shall not, however, voluntarily pay a claim under such circumstances unless and until a formal claim in writing for a specified or determinable amount of money shall have been filed in accordance with the provisions of paragraph (b) of this section.

(e) *Other claims.* If investigation of a claim develops that one or more other carriers has been presented with a similar claim on the same shipment, the carrier investigating such claim shall communicate with each such other carrier and, prior to any agreement entered into between or among them as to the proper disposition of such claim or claims, shall notify all claimants of the receipt of conflicting or overlapping claims and shall require further substantiation, on the part of each claimant of his/her title to the property involved or his/her right with respect to such claim.

### § 370.5 Acknowledgment of claims.

(a) Each carrier shall, upon receipt in writing or by electronic transmission of a proper claim in the manner and form described in the regulations in the past, acknowledge the receipt of